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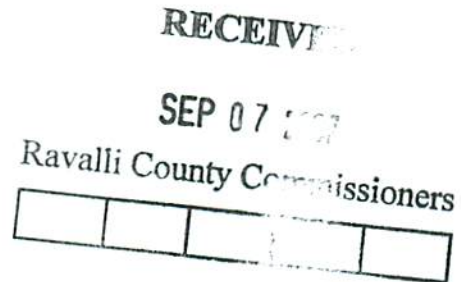
TO: Planning

CC: Commissioners ✓

FROM: Alex Beal, Deputy AB

DATE: September 7, 2007

RE: Stevensville Extra-territorial zoning



You have asked a question regarding the interrelation between 1 per 2 and the City of Stevensville's extra-territorial zoning. As a bit of background, the extra-territorial zoning (or "donut") surrounding Stevensville was enacted pursuant to MCA § 76-2-310 & 311. § 310 states that "except in locations where a county has adopted zoning or subdivision regulations, a city or town council...that has adopted a growth policy...for the area to be affected by the regulations may extend the application of its zoning or subdivision regulations beyond its limits subject to" mileage limits based upon class of the city. With no information to the contrary, I assume that Stevensville's regulations were validly enacted.

That brings us then to § 311, "a city or town may enforce regulations adopted pursuant to 76-2-310...until the county board adopts a growth policy...and accompanying zoning or subdivision resolutions..." As you know, Ravalli County adopted a growth policy 12-31-2002, and amended it 4-7-2003, and 8-18-2004. The only question remaining is whether the County has "accompanying" zoning or subdivision "resolutions." In terms of zoning "resolutions" the only guidance I can offer comes from § 76-1-605(1)(c), "after adoption of a growth policy, the governing body within the area covered by the growth policy...must be guided by and give consideration to the general policy and pattern of development set out in the growth policy in the...adoption of zoning ordinances and resolutions." I can find no authority that distinguishes interim and permanent zoning in any way in terms of "accompanying" zoning, and thus I must conclude that 1 per 2 is "accompanying zoning." Additionally, regarding the other prong, "subdivision resolutions" it seems plain to me that this language means subdivision regulations, which we have. In point of fact our subdivision regulations have certainly been amended numerous times since the adoption of our growth policy, in some cases to explicitly reference the growth policy. Additionally, 76-1-606 states that "when a growth policy has been approved, the subdivisions regulations adopted...must be made in accordance with the growth policy."

Thus, it is my legal opinion, based on Montana law, that due to the passage of County subdivision regulations, as well as 1 per 2, the City of Stevensville has no authority to enforce regulations in the county lands comprising the donut area.